



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,155	03/19/2004	John R. Decky	DEC-001	6406
21884	7590	03/08/2006		
WELSH & FLAXMAN LLC 2000 DUKE STREET, SUITE 100 ALEXANDRIA, VA 22314			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
DATE MAILED: 03/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,155	Applicant(s) DECKY, JOHN R.	
	Examiner Gregory W. Adams	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Jan. 20, 2006 has been entered.

Claim Objections

Claims 10 & 12 objected to because of the following informalities: the dependency from claim 8 is inappropriate because claim 8 is cancelled. For examination purposes it is presumed that claims 10 & 12 should depend from claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 10 & 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chitwood (US 4,722,511) (previously cited).

With respect to claims 1 & 16, Chitwood discloses a base 12, first and second upwardly extending arms 22 that define a plane, first support bar 14, first and second

Art Unit: 3652

coupling members 34 that extend perpendicularly from a first plane, second support bar 24, 52, crank arm 46.

With respect to claims 2-3, Chitwood discloses a C-shaped base having an opening along a forward end.

With respect to claims 4-5, Chitwood discloses fixed axis wheels 28 on rearward end and pivotal wheels 32 on a forward end.

With respect to claim 10, Chitwood discloses first and second coupling members secured to first support bar.

With respect to claim 12, Chitwood discloses locators 58, 72, 74.

With respect to claims 13 & 14, Chitwood discloses a threaded shaft 46 telescopically received in a threaded cylinder 54.

With respect to claim 15, Chitwood discloses a handle 50.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chitwood (US 4,722,511) in view of Birk (US 5,577,745) (previously cited). Chitwood does not disclose a U-shaped handle that extends rearwardly from first and second arms. Birk discloses a first upwardly extending arm proximal end 14, second upwardly

Art Unit: 3652

extending arm proximal end 20 each have a handle 17 curved in a U-shape 22 extending rearwardly from a plane formed by first and second arms handle wherein a forward end is aligned with a upwardly extending arm distal end 14 and a handle rearward end 16, 22 is aligned with rear wheels rear edge 38, 40 (See FIG. 22). Birk discloses that first and second hand grips cooperating with wheels hold a cart a distance from a surface when the personal material handling system is placed in a horizontal position to facilitate loading or affixing of attachments. Col. 6, lns. 20-65. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cart of Chitwood to include handles, as per the teachings of Birk, such that a cart could be placed horizontal for loading or affixing of attachments.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chitwood (US 4,722,511) in view of De La Rosa (US 4,659,072). Chitwood does not disclose slots. De La Rosa discloses that coupling members 14, 16 may be adjusted by moving them along slots 24, 26 provided in first support bar 18 such that objects of various widths may be clamped into position. C1/L60-64. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Chitwood to include slots, as per the teachings of De La Rosa, to accommodate various widths.

4. Claims 17 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chitwood in view of Howard (US 2,582,435) (previously cited).

Art Unit: 3652

With respect to claim 17, Chitwood does not disclose a forward arm, rear support plate, set screw, storage groove and use groove. Howard discloses a cart having a collapsible base comprising first and second forward arms 61, 61, support plate, set screw 66, 66, storage groove 70, and use groove 70, wherein a set screw 66 provides a pivot for forward arm 61. It is noted without further definition by Applicant, Howard's holes provide a locking groove to lock forward arms. Howard teaches collapsing a cart such that it may be carried in a car or stored in small spaces. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cart of Chitwood, such that it may be carried in a car or stored in a small space.

With respect to claim 20, Chitwood discloses fixed axis wheels 28 on rearward end and pivotal wheels 32 on a forward end.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

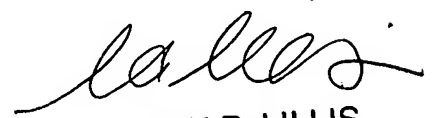
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600